

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4467 OF 2019

SACHIN MADHUKAR BHANDVALKAR
VERSUS
THE PRESIDENT HAR HAR MAHADEO SHIKSHAN PRASARAK MANDAL
AND OTHERS

...

Advocate for the Petitioner : Shri More Abhijit S.
Advocate for Respondents 1 and 2 : Shri M.K. Jadhav h/f Shri V.B.
Deshmukh

AGP for Respondent 3 : Shri Kiran B. Jadhavar

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CORAM: SMT. BHARATI H. DANGRE, J.
DATE :- 31st January, 2022

Per Court:

1. Heard the learned counsel for the petitioner and for respondent Nos.1 and 2/ Management.

2. The learned counsel for the petitioner has placed before me an order passed by this Court on 27.01.2020 in the case of ***Hanumant Umrao Bhandwalkar vs. Har Har Mahadev Shikshan Prasarak Mandal and others, in Writ Petition No.12113/2018***, wherein, it is recorded that the termination order is issued on assumption that the Education Officer has rejected the approval for appointment of the petitioner. Framing the question as to whether, the absence of approval *ipso-facto* lead to termination, this Court directed the reinstatement of the petitioner therein with the following directions :-

“5. *The petitioner shall be reinstated in service and shall be*

paid regular salary by the management. It is made clear that the salary shall be paid whether or not the management receives grant.

6. *In the interregnum, the management- respondent Nos.1 and 2 are directed to approach respondent No.3- Education Officer with a supplementary proposal, complete in every respects and this shall be done within two weeks and the Education Officer shall consider the same on its own merits and in accordance with law, within next two weeks after giving opportunity of hearing to the management.”*

3. As far as the present petitioner is concerned, he came to be appointed by the very same Management by following due procedure on 27.06.2013 and before the School Tribunal, the Education Officer pleaded in the reply that the appointment order is contrary to Rule 9 of the MEPS Rules. In the present Writ Petition, the Management had filed their affidavit wherein, the following statement is made :-

- “5. *The answering respondent say and submit that, the termination order has been issued upon the oral directions given by the respondent No.3. The management has already followed due procedure of law in order to appoint the petitioner. The management would be abide by the directions given by the respondent No.3 and therefore the termination order has been issued to the petitioner. The petitioner has been appointed on clear and vacant post and after satisfying the norms of Bindu Namavali therefore, the petitioner cannot be held to be illegally appointed. The answering respondent say and submit that, the termination order is nothing but a decision taken by management on the basis of oral directions given by the respondent No.3 Education Officer.*
6. *The answering respondent say and submit that, the answering respondent is ready to cure the deficiencies as directed by the respondent No.3 vide communication*

dated 19.12.2015 if this Hon'ble Court direct the answering respondent to do so."

4. In the wake of the above statement made in the affidavit, the petitioner deserves a similar order passed in Writ Petition No.12113/2018 in the case of Hanumant Umrao Bhandwalkar (supra), whose appeal was also rejected by the School Tribunal.

5. The learned counsel for the respondents/ Management state that he has no objection in passing a similar order as in Writ Petition No.12113/2018.

6. Hence, RULE. Rule made returnable forthwith.

7. The petitioner shall be reinstated in service and shall be paid regular salary by the respondent Nos.1 and 2/Management. It is made clear that the salary shall be paid whether or not the Management receives grant.

8. In the interregnum, the Management/respondent Nos.1 and 2 are directed to approach respondent No.3/ Education Officer with a supplementary proposal, complete in every respects and this shall be done within two weeks from today and the Education Officer shall consider the same on its own merits and in accordance with law, within next two weeks after giving opportunity of hearing to the Management.